

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA)	
)	
Plaintiff,)	
)	
vs.)	Case No. 07-00163-01-CR-W-NKL
)	
WILLIAM R. JAMES,)	
)	
Defendant.)	

ORDER

Pending before the Court is William James's ("James") Motion for Reconsideration of this Court's Order [Doc. # 26] affirming the Magistrate's Order of Detention [Doc. # 17]. For the following reasons, the Motion to Reconsider is denied as moot.

I. Background

On May 9, 2007, James was indicted for being a felon in possession of a firearm in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2). The charge arose after police were dispatched to a disturbance where a woman claimed she was raped at gunpoint. On August 31, 2007, this Court ruled that the charge of felon in possession of a firearm was a crime of violence under 18 U.S.C. § 3142(e) and upheld James's pretrial detention. *United States v. Dillard*, 214 F.3d 88, 93 (2d Cir. 2000). On September 18, 2007, James entered a guilty plea to Count One of the Indictment, charging him with a violation of 18

U.S.C. § 922(g)(1); that is, being a felon in possession of a firearm.

II. Discussion

Because James pleaded guilty to the crime of felon in possession of a firearm, the question of pre-trial detention is no longer before the Court. The Court could only, upon proper motion, determine whether the defendant should be released or detained pending sentencing pursuant to 18 U.S.C. § 3143. Under this standard, unlike pretrial detention, the law requires detention unless it can be shown by clear and convincing evidence that the defendant is not likely to flee or pose a danger to others or the community. The Court concedes that the question of whether felon in possession of a firearm is a crime of violence for purposes of 18 U.S.C. § 3142(e) has divided the Courts of Appeal. *United States v. Bowers*, 432 F.3d 518, (3d Cir. 2005); *United States v. Johnson*, 399 F.3d 1297 (11th Cir. 2005) (per curiam); *United States v. Twine*, 344 F.3d 987 (9th Cir. 2003) (per curiam); *United States v. Singleton*, 182 F.3d 7 (D.C. Cir. 1999); *United States v. Ingle*, 454 F.3d 1082 (10th Cir. 2006). However, that question is no longer before the Court and James has not set forth clear and convincing evidence that he is not likely to flee or pose a danger to others or the community. *See* 18 U.S.C. § 3143.

Accordingly, James's Motion for Reconsideration [Doc. # 28] is DENIED as moot.

s/ Nanette K. Laughrey _____
NANETTE K. LAUGHREY
United States District Judge

Dated: November 9, 2007
Kansas City, Missouri